



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/623,156

07/21/2003

Joseph Pohutsky

20-520

2708

7590 09/30/2010
MANELLI DENISON & SELTER PLLC
7th Floor
2000 M Street, N.W.
Washington, DC 20036-3307

EXAMINER

SHEDRICK, CHARLES TERRELL

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

09/30/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 9/7/10 have been fully considered but they are not persuasive.
2. In response to applicant's argument that *the reason Timmins fails to teach the acknowledged deficiencies is that Timmins invention uses dialed digits "4-1-1" suffixed by at least one auxiliary digit for "accessing a desired information assistance provider, regardless of which carrier a user utilizes."* (see col. 3, lines 34-36) Thus, modifying Timmins with the acknowledged deficiencies in Timmins would not provide any benefit in accessing a desired information assistance provider. In other words, modifying Timmins to retrieving a location based message for routing an information call to a desired information assistance provider is nonsensical, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).
3. Applicant argues that the Examiner acknowledged deficiency fail to properly reiterate the claimed features. The claimed location based message is based on TWO elements (1) an obtained current location of a subscriber device and (2) selected using at least one auxiliary digit, with an information telephone call comprising dialed digits "4-1-1" suffixed by the at least one auxiliary digit. Whittington teaches a features code that is prefix to a telephone number. (see col. 3, lines 22-35) Whittington fails to teach or suggest use of the dialed digits "4-1-1" OR at least

Art Unit: 2617

one auxiliary digit suffixes to dialed digits "4-1-1". Thus, Whittington cannot teach a location based message that is based on such features, as required by claims 1-3, 10-13, 19-22, 23-25 and

4. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

5. Timmins teaches the dialed digits suffixed by at least one auxiliary digit as noted by the Examiner and acknowledged by the Applicant above. Timmins illustrates that by using auxiliary digits suffixed to dialed digits 4-1-1 one could manipulate an information call in terms of providing a particular service. Whittington teaches where one could use auxiliary digits associated with a information call to retrieve a location based message associated with the auxiliary digits. Therefore, it would have been obvious to one of ordinary skill in the art based on the combination.

6. Claims 4, 7-9, 14, 17 and 18 over Timmins, Whittington, and Bar
for at least all the above reasons, claims 4, 7-9, 14, 17 and 18 are not patentable over the prior art of record.

7. Claims 6 and 16 over Timmins, Whittington, and Tell

Claims 6 and 16 are dependent upon claims 1 and 11 respectively, and are not allowable for at least the same reasons as claims 1 and 11.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES SHEDRICK whose telephone number is (571)272-8621. The examiner can normally be reached on Monday thru Friday 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571)-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles Shedrick/
Examiner, Art Unit 2617